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HEADQUARTERS EIGHTH ARMY
United States Army
Office of the Staff Judge Advocate

17 March 1949
Yokohama, Japan

UNITED STATES OF AMERICA VS IICHIRO MORIMOTO

Review of the Staff Judge Advocate

1. The attached record of trial of the case of Iichiro Morimoto, tried at Yokohama, Japan, from 24 March 1948 to 23 April 1948 by a Military Commission appointed by paragraph 1, Special Orders No. 54, Headquarters Eighth Army, United States Army, dated 5 March 1948, having been referred to the Staff Judge Advocate, this review is submitted to the Commanding General.

Personal Data Concerning Accused

NAME: Iichiro MORIMOTO
AGE: 58
RESIDENCE: Nara-ken, Shiki-gun, Daifu-mura, Oaza Daifuku
MARITAL STATUS: Married
RELATIVES: 4 children, 2 sisters
EDUCATION: Graduate, The Military College
VOCATION: Professional soldier
MILITARY CAREER: Graduated military academy 1912, Major General, March 1939, discharged December 1945.

DATE OF CONFINEMENT: 3 July 1947
DATE OF ARRAIGNMENT: 24 March 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 24 March 1948 to 23 April 1948
DATE OF SENTENCE: 23 April 1948
SENTENCE: CHL for twenty (20) years
CLEMENCY RECOMMENDED BY COMMISSION: No.

2. Synopsis of Charges, Pleas, Findings and Legal Sufficiency:

Charge and Specifications:	Pleas	Findings	Legally Sustained
Charge: Accused, during a time of war between the United States of America, its Allies and Dependencies, and Japan, did violate the Laws and Customs of War.	NG	G	Yes
Sp 1: Between 1 August 1942 and 9 March 1944, accused did unlawfully disregard and fail to discharge his duty as Area Commander of the PW Camps in the Philippine Islands by failing and refusing to provide for the American PW's confined at Cabanatuan Camp adequate and proper quarters, food, medicines, and medical supplies and hospitalization, thereby contributing to the death of more than 500 American PW's	NG	G, except the words: "area" and "and refusing", and the words "death of more than five hundred" substituting therefor the words "sickness, disease and suffering of numerous". Of the excepted words, Not guilty; of the substituted words Guilty.	Yes
Sp 2: Between 1 August 1942 and 9 March 1944, accused did unlawfully disregard and fail to discharge his duty as Area Commander of the Prisoner of War Camps in the Philippine Islands to control and restrain the members of his command and persons under his supervision and control, by permitting them to commit the following atrocities and other offenses against American Prisoners of War confined at Cabanatuan Prisoner of War Camp:	NG	G except the word: "area". Of the excepted word, Not guilty.	Yes

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Sp 2 a: On or about 29 September 1942, the unlawful killing of Lieutenant Colonel Lloyd W. Biggs, Lieutenant Colonel Howard Edward G. Breitung, and Lieutenant Roydell Gilbert, by shooting them;	NG	G	Yes
Sp 2 b: In or about October 1942, the unlawful killing of seven unidentified Prisoners of War by shooting them;	NG	G	Yes
Sp 2 c: On or about 21 November 1942, the unlawful killing of Private Donald Russel by shooting and beheading him;	NG	G	Yes
Sp 2 d: On or about 4 December 1942, the unlawful mistreatment of Private Art Self by beating and otherwise abusing him thereby contributing to his death;	NG	G	Yes
Sp 2 e: In or about the Spring of 1943, the unlawful mistreatment of Sergeant Conway by beating and otherwise abusing him, thereby contributing to his death;	NG	G	Yes
Sp 2 f: In or about the Spring of 1943, the unlawful killing of Corporal Julian C. McCord by shooting him;	NG	G	Yes
Sp 2 g: On or about 13 July 1943, the unlawful killing of Private First Class Connely by bayoneting and shooting him;	NG	G	Yes
Sp 2 h: In or about August 1943, the unlawful killing and torture of Private John Trujillo;	NG	G, except the words: "in or about", substituting therefor the words "between April and". Of the excepted words, Not guilty. Of the substituted words, Guilty.	Yes
Sp 2 i: In or about March 1943, the unlawful killing of an unidentified Prisoner of War by shooting and otherwise abusing him;	NG	Nolle prosequi (R 194)	
Sp 2 j: Between 1 August 1942 and 9 March 1944, the unlawful mistreatment of Private P. P. Smith by beating and otherwise abusing him, thereby contributing to his death;	NG	G, except the words: thereby contributing to his death"; of the excepted words, Not guilty.	Yes
Sp 2 k: On or about 17 September 1942, the unlawful mistreatment and abuse of Corporal Edward A. Beyuka by beating him;	NG	G	Yes

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Sp 2 l: On or about 21 September 1942, the unlawful mistreatment of Pvt William Cameron, Pfc Carlton Toup, and Cpl James M. Ballard by beating and otherwise abusing them;	NG	G	Yes
Sp 2 m: On or about 19 June 1943, the unlawful mistreatment and abuse of Cpl Arthur Sylvester Roberts by beating him;	NG	G	Yes
Sp 2 n: In or about July 1943, the unlawful mistreatment and abuse of Capt Batchler by beating him;	NG	G	Yes
Sp 2 o: On or about 19 November 1943, the unlawful mistreatment and abuse of Sgt Felix McCool by beating him;	NG	G	Yes
Sp 2 p: In or about December 1943, the unlawful mistreatment and abuse of Whitney A. Langlois by beating him;	NG	G	Yes
Sp 2 q: Between 1 August 1942 and 9 March 1944, the unlawful mistreatment and abuse of Sgt Brooks L. Tanner by beating him;	NG	G	Yes
Sp 2 r: On or about 20 January 1944, the unlawful mistreatment and abuse by Nitokyo Chin Boe of Lt C. R. Pfaff by beating him;	NG	G	Yes
Sp 2 s: In or about February 1944, the unlawful mistreatment and abuse of Capt Wermuth, Sgt Henry J. Pacer and four other Prisoners of War by beating them;	NG	G	Yes
Sp 2 t: In or about March 1944, the unlawful mistreatment and abuse of Pvt Barney Ozello by beating him;	NG	NG	
Sp 2 u: Between 1 August 1942 and 31 July 1943, the unlawful mistreatment and abuse of Cpl Faustino Olguin by beating him;	NG	G	Yes
Sp 2 v: Between 1 August 1942 and 9 March 1944, the unlawful mistreatment and abuse of Cpl Edward D. Wyatt, Earl Phillips, Trujilla, Garson, and Kinner by beating them;	NG	G	Yes
Sp 2 w: Between 1 August 1942 and 9 March 1944, the unlawful mistreatment and abuse of Pvt Winifred J. Thompson and Cpl Amuel Paul Paskey by beating them;	NG	NG	
Sp 2 x: Between 30 January 1943 and 9 March 1944, the unlawful mistreatment and abuse of Sgt Norman Tant by beating him;	NG	NG	

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Sp 2 y: Between 1 October 1943 and 9 March 1944, the unlawful mistreatment and abuse of S/Sgt William Wilson Harman Snow, by beating him;	NG	G	Yes
Sp 2 z: Between 1 August 1942 and 9 March 1944, the unlawful mistreatment of numerous Prisoners of War other than as hereinabove specified by beating and otherwise abusing them, thereby causing and contributing to the death of numerous of said Prisoners.	NG	G, except the words: "thereby causing and contributing to the death of numerous of said prisoners". Of the excepted words Not guilty.	Yes
Sp 3: Between 10 October 1942 and 9 March 1944, accused did unlawfully disregard and fail to discharge his duty as Area Commander of the Prisoner of War Camps in the Philippine Islands by permitting American Prisoners of War confined to Davao Prisoner of War Camp to be employed at labor under dangerous and unhealthful conditions, thereby contributing to their sickness, disease, and suffering.	NG	G, except the word: "Area" and the words "permitting American", substituting therefore the words "permitting persons under his control to force American". Of the excepted word and words, Not guilty; of the substituted words, Guilty.	Yes
Sp 4: Between 10 October 1942 and 9 March 1944, accused did unlawfully disregard and fail to discharge his duty as Area Commander of the Prisoner of War Camps in the Philippine Islands by failing and refusing to provide for Capt F. B. Howden, 1st Lt Skiles and other unidentified American Prisoners thereat confined adequate and proper quarters, shelter, hygiene, food, clothing, medicines, medical supplies and hospitalization thereby contributing to their death.	NG	G, except the word: "area", the words "and refusing", the words "Captain F. B. Fowden, one First Lieutenant Skiles and other unidentified", the words "medical supplies and hospitalization" substituting therefor the words "and medical supplies"; and except the word "death", substituting therefor the words "sickness, disease and suffering". Of the excepted words, Not guilty. Of the substituted words, Guilty.	Yes
Sp 5: Between 10 October 1942 and 9 March 1944, accused did unlawfully disregard and fail to discharge his duty as Area Commander of the Prisoner of War Camps in the Philippine Islands to control and restrain the members of his command and persons under his supervision and control by permitting them to commit the following atrocities and other offenses against American Prisoners of War confined at Davao Prisoner of War Camp;	NG	G, except the word: "area"; of the excepted word, Not guilty.	Yes
Sp 5 a: In or about July 1943, the unlawful mistreatment and torture of Sgt Robert J. Endres by forcing water into his stomach, jumping on his stomach, kicking, beating, and otherwise abusing him;	NG	G	Yes

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Sp 5 b: In or about December 1943, the unlawful mistreatment and torture of Lt Craig Milligan, Sgt Frank B. Blaydes, Sgt William Biggs, Sgt Roy Hughes and other Prisoners of War by subjecting them to electric shocks;	NG	G	Yes
Sp 5 c: From 4 April 1943 to 4 June 1943, the unlawful collective punishment of approximately five hundred Prisoners of War for alleged attempts to escape by Capt William E. Dyess, Lt Commander Melvyn H. McCoy, Maj Stephen M. Mellnick, and Maj Michael Dobervitch by reducing their rations, by confining them, and by otherwise abusing them;	NG	G, except the words: "by confining them". Of the excepted words, Not guilty.	Yes
Sp 5 d: From about 25 October 1943, to about 5 November 1943, the unlawful collective punishment of approximately twenty-two Prisoners of War for the alleged attempt to escape of Pease and Brown by reducing their rations, by confining them, and by otherwise abusing them;	NG	G	Yes
Sp 5 e: At divers times between 1 October 1942 and 9 March 1944, the unlawful collective punishment of numerous Prisoners of War other than as hereinabove specified by reducing rations, by confinement, and by otherwise abusing them;	NG	NG	
Sp 5 f: In or about October 1942, the unlawful mistreatment and abuse of Lt Kelso by beating him;	NG	G	Yes
Sp 5 g: In or about October 1942, the unlawful mistreatment and abuse of Maj Sam C. Jones and Capt Leonard Cairns by beating them;	NG	G	Yes
Sp 5 h: On or about 23 October 1942 and in or about November 1942, the unlawful mistreatment and abuse of Lt Colonel William Robinson by beating him;	NG	G	Yes
Sp 5 i: On or about 23 October 1942, the unlawful mistreatment and abuse of S/Sgt William Rubert Potthoff by beating him;	NG	G	Yes
Sp 5 j: On or about 23 October 1942, the unlawful mistreatment and abuse of Cpl Jose Harrison Alsobrook by beating him;	NG	G	Yes
Sp 5 k: On or about 8 November 1942, the unlawful mistreatment and abuse of an unidentified Navy Petty Officer by beating him;	NG	G	Yes

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Sp 5 l: On or about 10 November 1942, the unlawful mistreatment and abuse of Sgt Shrock by beating him;	NG	G	Yes
Sp 5 m: In or about December 1942, the unlawful mistreatment and abuse of T/Sgt James Albert Campbell by beating him;	NG	G	Yes
Sp 5 n: In or about November or December 1942, the unlawful mistreatment and abuse of Cpl Edward N. Reives by beating him;	NG	G	Yes
Sp 5 o: In or about December 1942, the unlawful mistreatment and abuse of Cpl Michael Pulice by beating him;	NG	G	Yes
Sp 5 p: On or about 15 January 1943, the unlawful mistreatment and abuse of Cpl Edward Lincoln Howard by beating him;	NG	G	Yes
Sp 5 q: On or about 15 March 1943, the unlawful mistreatment and abuse of M/Sgt Erwin Meiserick and five other unidentified Prisoners by beating them;	NG	G	Yes
Sp 5 r: On or about 30 March 1943, the unlawful killing of Sgt John McPhee by shooting him;	NG	G	Yes
Sp 5 s: In or about June or July 1943, the unlawful mistreatment and torture of Lt Col Arnold D. Amoroso and an unidentified Navy Officer by confining them in improper and cramped quarters and by otherwise abusing them over a period of many days;	NG	G, except the words: "confining them in improper and cramped quarters and by otherwise". Of the excepted words, Not guilty.	Yes
Sp 5 t: In or about June 1943, the unlawful mistreatment and abuse of Pvt Teller by beating him;	NG	G	Yes
Sp 5 u: (as amended, R 67) In or about July 1943, the unlawful mistreatment and abuse of an unidentified Prisoner of War by beating him;	NG	G	Yes
Sp 5 v: In or about June 1943, the unlawful mistreatment and abuse of T/Sgt Gordon H. Newman by beating him;	NG	G	Yes
Sp 5 w: In or about July or August 1943, the unlawful mistreatment of S/Sgt Omar A. Schoenborne by beating and otherwise abusing him;	NG	G	Yes
Sp 5 x: In or about September 1943, the unlawful mistreatment and abuse of Capt Frank M. Bovee by beating him;	NG	G	Yes

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Sp 5 y: In or about October or November 1943, the unlawful mistreatment and abuse of Sgt John H. Hatch by confining him in a painful position and by repeatedly beating him for a period of approximately seven days;	NG	G	Yes
Sp 5 z: At divers times between about 10 October 1942 and 9 March 1944, the unlawful mistreatment and abuse of Sgt William R. Linderfeldt by beating him;	NG	G, except the numeral "10", substituting therefor the numeral "1". Of the excepted numeral, Not guilty; of the substituted numeral, guilty.	Yes
Sp 5 aa: In or about the latter part of 1943, the unlawful mistreatment and abuse of Pvt Alexander Brown, Pvt Bratt and about ten other Prisoners of War by beating them;	NG	G	Yes
Sp 5 bb: Between 10 October 1942 and 9 March 1944, the unlawful mistreatment of numerous Prisoners of War other than as hereinabove specified by beating and otherwise abusing them.	NG	G	Yes
Sp 6: Between 1 August 1942 and 9 March 1944, accused did unlawfully disregard and fail to discharge his duty as Area Commander of the Prisoner of War Camps in the Philippine Islands, to control and restrain the members of his command and persons under his supervision and control, by refusing and failing to provide for the American Prisoners of War confined at Bilibid Prison, adequate and proper quarters, shelter, hygiene, food, clothing, medicines, medical supplies and hospitalization, thereby contributing to their sickness, disease, suffering, and death.	NG	G, except the word: "area" and the words "refusing and", and the words "suffering and death", substituting therefor the words "and suffering". of the excepted words, Not guilty; of the substituted words, guilty.	Yes
Sp 7: Between 1 August 1942 and 9 March 1944, accused did unlawfully disregard and fail to discharge his duty as Area Commander of the Prisoner of War Camps in the Philippine Islands to control and restrain the members of his command and persons under his supervision and control, by permitting unlawful mistreatment of American Prisoners of War confined at Bilibid Prison by beating and otherwise abusing them.	NG	G, except the word: "area". Of the excepted word, Not guilty.	Yes
Sp 8: Between 1 August 1942 and 9 March 1944, accused did unlawfully disregard and fail to discharge his duty as Area Commander of the Prisoner of War Camps in the Philippine Islands, by failing to provide and maintain for a work detail of American	NG	NG	

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Prisoners of War adequate and proper quarters, shelter, hygiene, food, clothing, available medicines, and medical supplies and attention, thereby contributing to their sickness, disease, and suffering and contributing to the death of Cpl Leo B. Riley, on or about 3 July 1943, Pfc Horace E. King, on or about 15 September 1943, Pfc Aaron J. Waldman, on or about 22 September 1943, and numerous other American Prisoners of War.		
Sp 9: Between 1 August 1942 and 9 March 1944, accused did unlawfully disregard and fail to discharge his duty as Area Commander of the Prisoner of War Camps in the Philippine Islands, by permitting the unlawful use of a work detail of American Prisoners of War in dangerous and hazardous work, thereby causing the deaths of Irving Newman, Joseph Zubie, Max H. Beiderman, and other American Prisoners of War.	NG	NG
Sp 10: Between 1 August 1942 and 9 March 1944, at or near Nichols Field, accused did unlawfully disregard and fail to discharge his duty as Area Commander of the Prisoner of War Camps in the Philippine Islands, by permitting sick American Prisoners of War to perform hard labor while physically unfit to do so and by permitting American Prisoners of War to perform labor having a direct relationship to the war operations.	NG	NG
Sp 11: Between 1 August 1942 and 9 March 1944, accused did unlawfully disregard and fail to discharge his duty as Area Commander of Prisoner of War Camps in the Philippine Islands to restrain and control members of his command and persons under his supervision and control by permitting them to commit the following atrocities and other offenses against American Prisoners of War confined at or near Nichols Field:	NG	NG
Sp 11 a: In or about October 1942, the unlawful killing of Cpl Brooks Miller by beheading him;	NG	NG
Sp 11 b: In or about April 1943, the unlawful killing of Pvt Norman H. Hinckley, Jr, by beating, kicking, and otherwise abusing him;	NG	NG

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Sp 11 c: In or about June 1943, the unlawful mistreatment of Sumner T. Smith by beating, kicking, and otherwise abusing him.	NG	NG
Sp 11 d: In or about June 1943, the unlawful mistreatment and torture of two unidentified Prisoners of War by beating them, suspending them from a tree with their toes barely touching the ground, and otherwise abusing them, thereby contributing to their death;	NG	NG
Sp 11 e: In or about July 1943, the unlawful killing of Pvt Daniel H. Sanchez by shooting him;	NG	NG
Sp 11 f: In or about July 1943, the unlawful mistreatment and torture of Pvt Joe L. Coco by beating him, dragging his body along the ground, forcing large quantities of water into his body and then jumping on his stomach, and otherwise abusing him, thereby contributing to his death;	NG	NG
Sp 11 g: In or about July 1943, the unlawful mistreatment and torture of Pfc C. E. Quattroni, by beating him and by forcing large quantities of water into his stomach thereby contributing to his death;	NG	NG
Sp 11 h: In or about September 1943, the unlawful killing of Pfc Lee L. Savage by shooting him;	NG	NG
Sp 11 i: In or about February 1944, the unlawful killing of Pfc Tony Petronas by beating and otherwise abusing him;	NG	NG
Sp 11 j: On or about 11 August 1942, the unlawful mistreatment and abuse of Chief Signalman Reuben Fine and about one hundred and ten other Prisoners of War by beating them;	NG	NG
Sp 11 k: On or about 6 September 1942 the unlawful mistreatment and abuse of Joseph L. Boudolf and several hundred other Prisoners of War by beating them;	NG	NG
Sp 11 l: In or about October 1942, the unlawful mistreatment of Joseph Q. Johnson by beating him into unconsciousness and otherwise abusing him;	NG	NG
Sp 11 m: In or about November 1942, the unlawful mistreatment and abuse of T/Sgt Clinton S. Goodbla by beating him;	NG	NG

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Sp 11 n: In or about November 1942, the unlawful mistreatment of about fifteen sick Prisoners of War by beating and otherwise abusing them;	NG	NG
Sp 11 o: In or about January 1943, the unlawful mistreatment of an Army Sergeant known as "Pete" by beating, kicking, and otherwise abusing him;	NG	NG
Sp 11 p: In or about February 1943, the unlawful mistreatment and abuse of Maj Bress and S/Sgt Frederick W. Crocker by beating them;	NG	NG
Sp 11 q: In or about March 1943, the unlawful mistreatment and abuse of Pvt Robert Sholten by beating him;	NG	NG
Sp 11 r: In or about April 1943, the unlawful mistreatment and abuse of Cpl John H. Bailey by beating him;	NG	NG
Sp 11 s: In or about July 1943, the unlawful mistreatment of Pvt Joseph Blair by beating and otherwise abusing him intermittently for a period of about a week;	NG	NG
Sp 11 t: In or about September 1943, the unlawful mistreatment and abuse of Sgt James E. Strawhorn and Cpl Lee Bennett by beating them;	NG	NG
Sp 11 u: In or about November 1943, the unlawful mistreatment and abuse of Cpl Lawrence Williams and about forty-three other Prisoners of War by beating them;	NG	NG
Sp 11 v: In or about November 1943, the unlawful mistreatment and abuse of T/4 William Warren by beating him;	NG	NG
Sp 11 w: In or about November 1943, the unlawful mistreatment and torture of Elmo C. DeMunbrun, by beating him, stringing him up by the hands with his toes barely touching the ground, forcing him to sit with a two by four board in the bend of his knees, gagging him by pouring water into his mouth while partially unconscious and otherwise abusing him over a period of three days;	NG	NG
Sp 11 x: At divers times between 1 August 1942 and 4 January 1944, the unlawful mistreatment and abuse of Maj Bress and Capt Haines by beating them;	NG	NG
Sp 11 y: In or about January 1944, the unlawful mistreatment and abuse of Lt Robert Greenman and Capt Merkle by beating them;	NG	NG

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Sp 11 z: Between 1 August 1942 and 9 March 1944, the unlawful mistreatment of numerous Prisoners of War other than as hereinabove specified by beating and otherwise abusing them;	NG	NG
Sp 12: Between 1 August 1942 and 9 March 1944, at or near Las Pinas Airfield, accused did unlawfully disregard and fail to discharge his duty as Area Commander of the Prisoner of War Camps in the Philippine Islands by permitting sick American Prisoners of War to perform hard labor while sick, diseased, weak, and physically unfit to do so and by permitting American Prisoners of War to perform labor, having a direct relationship to war operations.	NG	NG
Sp 13: Between 1 August 1942 and 9 March 1944, accused did unlawfully disregard and fail to discharge his duty as Area Commander of Prisoner of War Camps in the Philippine Islands to control and restrain members of his command and persons under his supervision and control by permitting them to commit the following atrocities and other offenses against American Prisoners of War confined at or near Las Pinas Airfield:	NG	NG
Sp 13 a: In or about November 1943, the unlawful mistreatment and abuse of Capt Myers by beating him;	NG	NG
Sp 13 b: In or about December 1943, the unlawful mistreatment and abuse of Cpl Kirk G. Fletcher by beating him;	NG	NG
Sp 13 c: In or about December 1943, the unlawful mistreatment and abuse of Chief Gunner's Mate Alton B. Bryan by beating him;	NG	NG
Sp 13 d: In or about the latter part of 1943, the unlawful mistreatment and abuse of Sgt Dan DeAugustine by beating him;	NG	NG
Sp 13 e: Between 1 August 1942 and 9 March 1944, the unlawful mistreatment of numerous Prisoners of War, other than as hereinabove specified, by beating and otherwise abusing them.		
Sp 14: Between 20 May 1943 and 1 October 1943, at or near Nielsen Airfield, accused did unlawfully disregard and fail to discharge his duty as Area Commander of the Prisoner of War Camps in the Philippine Islands, by permitting sick American Prisoners	NG	G, except the words "area" and the words "permitting sick", substituting therefor the words "permitting persons under his control to force sick"; and except

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of War to perform hard labor while physically unfit to do so and by permitting American Prisoners of War to perform labor having a direct relationship to war operations.		the words "permitting American", substituting therefor the words "permitting persons under his control to force American". Of the excepted words, Not guilty; of the substituted words, guilty.	
Sp 15: Between 20 May 1943 and 1 October 1943, accused did unlawfully disregard and fail to discharge his duty as Area Commander of Prisoner of War Camps in the Philippine Islands, to control and restrain members of his command and person under his supervision and control by permitting them to commit the following atrocities and other offenses against American Prisoners of War confined at or near Nielsen Airfield:	NG	G, except the word: "Area". Of the excepted word, Not guilty.	No
Sp 15 a: Between 1 October 1942 and 31 December 1942, the unlawful killing of an unidentified Prisoner of War by beating him;	NG	G	No
Sp 15 b: Between 20 August 1943 and 1 October 1943, the unlawful mistreatment and abuse of Pfc Charles Weaver, Pfc Williams, Sgt Burton and other Prisoners of War by beating them;	NG	G	No
Sp 15 c: From about 1 January 1943 to about 9 March 1944, the unlawful mistreatment of Pvt Baldwin, Pfc Stokes, Sgt Bartell, Pfc Pratt, Sgt Gregory, Cpl Warren H. Knight and other Prisoners of War by beating and otherwise abusing them;	NG	G	No
Sp 15 d: In or about July 1943, the unlawful mistreatment and abuse of Cpl Charles C. Bruno, by beating him;	NG	G	No
Sp 15 e: Between 1 May 1943 and 30 June 1943, the unlawful mistreatment and abuse of Sgt Leo Jurovich, 1st Lt Pullen, Dana Backus, S/Sgt Raynor, Ted Rosenberg, Robert Bary, and Fred P. Herman by beating them;	NG	G	No
Sp 15 f: In or about August or September 1943, the unlawful mistreatment and abuse of five unidentified Prisoners of War by beating them;	NG	G	No
Sp 15 g: In or about November 1942, the unlawful mistreatment and abuse of Pvt Johnson by beating him;	NG	G	No

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Sp 15 h: In or about August 1943, the unlawful mistreatment and abuse of several unidentified Prisoners of War by beating them;	NG	NG	
Sp 15 i: On or about 13 October 1943, the unlawful mistreatment and abuse of Pfc John G. Denver, by beating him;	NG	G	No
Sp 15 j: In or about October 1942, the unlawful mistreatment and abuse of Sgt Lester H. Houdyshell and another unidentified Prisoner of War by beating them;	NG	G	No
Sp 15 k: On or about 4 July 1943, the unlawful mistreatment and abuse of Bill Martin and "Slats" by beating them;	NG	G	No
Sp 15 l: Between 1 October 1942 and 9 March 1944, the unlawful mistreatment of numerous Prisoners of War, other than as hereinabove specified, by beating and otherwise abusing them.	NG	G	No
Sp 16: Between 1 January 1943 and 9 March 1944, at or near Clark Field, accused did unlawfully disregard and fail to discharge his duty as Area Commander of the Prisoner of War Camps in the Philippine Islands, by permitting sick American Prisoners of War to perform hard labor while physically unfit to do so and by permitting American Prisoners of War to perform labor having a direct relationship to war operations.	NG	G, except the word: "Area" and the words "permitting sick", substituting therefor the words "permitting persons under his control to force sick"; and except the words "permitting American", substituting therefor the words "permitting persons under his control to force American". Of the excepted words, Not guilty. Of the substituted words, Guilty.	No
Sp 17: Between 1 January 1943 and 9 March 1944, accused did unlawfully disregard and fail to discharge his duty as Area Commander of Prisoner of War Camps in the Philippine Islands, to control and restrain members of his command and persons under his supervision and control by permitting them to commit the following atrocities and other offenses against American Prisoners of War confined at or near Clark Field:	NG	G, except the word: "Area"; of the excepted word, Not guilty.	No
Sp 17 a: In or about January 1943, the unlawful mistreatment and abuse of Cpl Raymond George Reeves by beating him;	NG	G	No

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Sp 17 b: In or about January 1943, the unlawful mistreatment and abuse of T/Sgt John N. Culp and other Prisoners of War by beating them;	NG	G	No
Sp 17 c: On or about 8 May 1943, the unlawful mistreatment and abuse of Cpl Fred M. Smith, Cpl Robert E. Damon, Cpl Charles C. Houston, and three other Prisoners of War by beating them;	NG	G	No
Sp 17 d: In or about November 1943, the unlawful mistreatment and abuse of a guard known as "The Lizard" of Oscar A. Mackey and other Prisoners of War by beating them;	NG	G	No
Sp 17 e: On or about 25 December 1943, the unlawful mistreatment of Sgt Nesbitt by beating and otherwise abusing him;	NG	G	No
Sp 17 f: Between 1 January 1943 and 9 March 1944, the unlawful mistreatment of numerous Prisoners of War, other then as hereinabove specified, by beating and otherwise abusing them.	NG	G	No
Sp 18: Between 1 August 1942 and 9 March 1944, at or near Puerta Princessa, accused did unlawfully disregard and fail to discharge his duty as Area Commander of the Prisoner of War Camps in the Philippine Islands by permitting sick American Prisoners of War to perform hard labor while physically unfit to do so and by permitting American Prisoners of War to perform labor having a direct relationship to war operations.	NG	G, except the word: "Area", and the words "permitting sick", substituting therefor the words "permitting persons under his control to force sick"; and except the words "permitting American", substituting therefor the words "permitting persons under his control to force American". Of the excepted word and words, Not guilty. Of the substituted words, Guilty.	No
Sp 19: Between 1 August 1942 and 9 March 1944, accused did unlawfully disregard and fail to discharge his duty as Area Commander of Prisoner of War Camps in the Philippine Islands, to control and restrain members of his command and persons under his supervision and control by permitting them to commit the following atrocities and other offenses against American Prisoners of War confined at or near Puerta Princessa:	NG	G, except the word: "Area". Of the excepted word, Not guilty.	No
Sp 19 a: Between 1 August 1942 and 9 March 1944, the unlawful killing of E. V. Wilson and White, by shooting and otherwise abusing them;	NG	G, except the word: "killing", substituting therefor the word "mistreatment"; and except the word "shooting", substituting therefor	No

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		the word "beating". Of the excepted words, Not guilty; of the substituted words, Guilty.	
Sp 19 b: In or about 1943, the unlawful collective punishment of approximately ten Prisoners of War for the alleged escape of Cpl Street by beating them;	NG	G	No
Sp 19 c: Between 1 August 1942 and 9 March 1944, the unlawful collective punishment of numerous Prisoners of War for the alleged escape of six American Prisoners of War by reducing their rations;	NG	NG	
Sp 19 d: In or about December 1942, the unlawful mistreatment of Jock Taylor, Barnum, Hoefling, Freeman and six other Prisoners of War by beating and otherwise abusing them;	NG	G	No
Sp 19 e: In or about October 1942, the unlawful mistreatment of Gerald L. Skripsy, Joseph Viturna, and F. M. Parrish by beating them;	NG	G	No
Sp 19 f: Between 9 August 1942 and 9 March 1944, the unlawful mistreatment of numerous Prisoners of War other than as hereinabove specified by beating and otherwise abusing them.	NG	G	No

3. Summary of the Evidence:

a. For the Prosecution:

General Facts. The case at issue is one of command responsibility over many incidents alleged to have taken place at various POW camps in the Philippines. It appears that there were the Manila Headquarters with Bilibid Attached Hospital and Cabanatuan and Davao Branch Camps. In addition to these, there were numerous installations and airfields to which the PW's were dispatched for work. These will be referred to as units to distinguish them from the camps.

Accused took over as commander of the Philippines POW camps under 14th Army from 1 August 1942 to 1 March 1944. Under his control were Bilibid Hospital, Cabanatuan and Davao Branch Camps. He had no responsibility to the PW's who were dispatched to units. The units were responsible for food, clothing, housing, medical and general treatment and so forth, according to 14th Army POW dispatch regulations (R 105, 122, 156, 159, 167). He was not on the staff nor was he a staff officer of the 14th Army but was directly under the commanding general of the 14th Army. He had clerical responsibility to receive monthly reports from the units and relay mail and pay to the PW's in the units. He had no authority to inspect units. However, he did inspect Bilibid Hospital and Davao and Cabanatuan camps several times and probably visited some of the units at least once during the time in question. Unit commanders were directly responsible to the commanding general of the 14th Army, by-passing the accused (R 129, 130, 159, 167). The accused was to receive and consolidate monthly reports and forward same to army headquarters. He was to supervise units, as far as these reports go, to

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see that such reports were complete. He had no authority to check on the truthfulness of such reports. When airfield wanted prisoners, they requisitioned them of 14th Army Headquarters. Airfield commanders were fully responsible but being units under the 14th Army, this did not relieve the 14th Army commanding general of his responsibility. Accused was to make inspection to see that dispatch regulations were obeyed. However, if he found a violation, he had to report it to the 14th Army commander for action. His responsibility was to determine the status of the prisoners and to be able to inform the 14th Army Headquarters of name, rank, assignment, pay, conditions of health, deaths, if any, and reasons therefore, and general welfare (Ex 1, 34, 35, 62, 63, 74, 158, 162).

CABANATUAN PHASE

As to Specification 1: Buildings meant to house fifty men were used for from sixty to one hundred and twenty men. They slept in bamboo strips. Twelve to sixteen officers were quartered in two-man huts. Other buildings were available. Food consisted mostly of dried salted fish covered with vermin, maggots and lice. No showers were available. Medicine and medical supplies were not issued. Small amounts were received from the Red Cross (Ex 2, 33). The amount of food was always inadequate. Patients died at the rate of thirty to forty a day mainly from starvation. Prisoners did not receive as much food as basic troops in the Japanese Army located in the same area. Requests for such were repeatedly refused. Supplies were available for issue. Many patients died from exposure due to lack of bedding and clothing. It was impossible to flyproof the slit trenches used for latrines (Ex 3, 33). A Japanese sergeant told witness that the accused had severely criticized them for feeding meat to PW's (Ex 83). The withholding of available medicines and medical supplies is corroborated in Exhibit 166.

As to Specification 2a: In September 1942, Lt. Col. Lloyd W. Biggs, Lt. Col. Howard Edward Breitung and Lt. Roydell Gilbert were apprehended in the camp by Japanese while attempting to escape. After being tortured and beaten for several days, they were shot upon orders of Col. Mori, (camp commander) who had consulted with Manila headquarters about the case (R 40 to 43; Ex 9, 10, 11, 33). Exhibit 34 states that the execution was ordered by the accused.

As to Specification 2b: In October 1942, witness saw seven American PW's forced to dig their own graves, after which they were shot (Ex 12).

As to Specification 2c: On 21 November 1942, Okamoto commanded a firing squad to shoot Pvt. Donald Russel, then himself shot Russel at pointblank range with a pistol. Okamoto then cut Russel's head off and paraded it around camp on a pole (Ex 13). Russel was still alive when beheaded (Ex 164).

As to Specification 2d: On 4 December 1942, Yoshinaga beat Art Self so badly he had to be taken to the hospital. Yoshinaga then went to the hospital and beat Self again. That night Self died (Ex 13).

As to Specification 2e: In the spring of 1943, Sgt. Conway was beaten to a pulp and thereby killed (Ex 14).

As to Specification 2f: In the late spring of 1943, Cpl McCord was shot and killed by a guard (Ex 14). On or about October 1943, Julian C. McCord, a patient from the psycho ward, had escaped and was brought back to camp by some fellow prisoners. He was taken to the Japanese headquarters in camp and that night was shot to death (Ex 15).

As to Specification 2g: On 13 July 1943, Pfc Connely was bayonetted in the stomach and chest. His arms and legs were broken, then he was shot to death (Ex 10, 16).

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As to Specification 2h: Sometime in August 1943, Pvt John Trujillo was tortured and executed (Ex 15).

As to Specification 2i: " Nolle Prossed.

As to Specification 2j: A Japanese beat Pvt P.P. Smith, who died several weeks later (Ex 17).

As to Specification 2k: On 17 September 1942, Cpl Edward A. Beyuka was put in solitary confinement after apprehension from escape and a Japanese sergeant beat him with an iron bar. He was confined until sometime in November 1942, and during confinement was made to dig ditches and move dirt while feet were hobbled and while wearing a sign reading "Example of an Escaped Prisoner" (Ex 18).

As to Specification 2l: Pvt William Cameron, Pfc Carlton Toup and Cpl James M. Ballard were apprehended on 21 September 1942 after escape. Their feet were tied together and their hands were crossed behind their backs and tied. Then a long rope was tied around the wrists and they were suspended from a rafter with just their toes touching the ground. While suspended thus, they were beaten and kicked into unconsciousness. They were then taken down and afterwards returned to the rafters and beaten again. This treatment lasted three days (Ex 19).

As to Specification 2m: On 19 June 1943 a Japanese guard beat Cpl Arthur Sylvester Roberts with fists and club on shins, arms, shoulders and head, then kicked him on the head when he fell down (Ex 20).

As to Specification 2n: A Japanese sentry kicked Capt Batchler in the stomach, testicles, shins, and kicked the skin off his hands (Ex 21).

As to Specification 2o: On 19 November 1943 Sgt Felix McCool was kicked on the thigh and hip by a guard. After a kick he fell partly down and as he rose he was hit in the face with closed fist. This blow cut his lip and loosened one tooth (Ex 22).

As to Specification 2p: On or about 10 December 1943, a Japanese beat Whitney A. Langlois over the back with a hoe handle for no apparent reason (Ex 23).

As to Specification 2q: Sgt Brooks L. Tanner states he received several beatings with hoe handle, fists, drawn bayonets, and a rifle butt. About January 1944 he was beaten severely on head and body with a hoe handle. Several of his buddies had to help him back to camp (Ex 24).

As to Specification 2r: On 20 January 1944 Lt. C. R. Pfaff was lying unconscious on a litter when Nitokyo Chin Boe hit him on the face with a stick (Ex 25).

As to Specification 2s: A Japanese guard beat Capt Wermuth, Sgt Henry J. Pacer and four others about February 1944. He used a two by three-inch club on the head, back and shoulders. Pacer went to sick bay for three days. A few days later another Japanese guard beat Pacer with a pick-axe handle about the neck, knocking him out (Ex 12).

As to Specification 2t: Not Guilty.

As to Specification 2u: Cpl Faustino Olguin was beaten across the face and on the back with a stick about fifteen times (Ex 27).

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As to Specification 2v: Between 1 August 1942 and 9 March 1944, Cpl Edward D. Wyatt, Earl Phillips, Trujillo, Garson and Kinner were beaten in a group many times. Sabre scabbards, hoe, and pick handles all were used (Ex 28).

As to Specification 2w and 2x: Not Guilty.

As to Specification 2y: Between 1 October 1943 and 9 March 1944, S/Sgt Wilson Harman Snow was beaten by two guards with fist and stick and was kicked in the stomach and face after being knocked down (Ex 31).

As to Specification 2z: During the period November 1942 to the summer of 1944, all prisoners who were recaptured after escape or who were apprehended while attempting to escape were executed without trial. In one case the body of the prisoner was badly mutilated during or after execution. Individual cases of mistreatment were far too numerous to remember (Ex 11). About November 1943 a guard beat up American Prisoners with a two by three club about the head and back until they were unconscious (Ex 12). All guards had a separate brand of torture. One would break arms of prisoners and all would beat with anything available. Witness was beaten and knocked unconscious on many occasions (Ex 14). Many men were beaten for eating an onion or radish while working on the farm. Several had their arms broken for it (Ex 114). Other incidents of beatings and abuse are found in Exhibits 2 and 10.

DAVAO PHASE

As to Specification 3: One man worked in a rice paddy where two formerly worked. Men were not allowed to quit until the assigned work was completed regardless of the hour. Prisoners were not fed enough to perform assigned work. They worked from 0600 to 1130 and 1230 to 1630 and up to 2200 clothed only in a G-string in the tropical sun and during sudden showers. Many had a rice rash which caused sores. These sores became infected from the water in the rice paddies (Ex 37, 38). Men all suffered from dysentery and malaria. They worked in the rice fields in the heat in the midday sun. The camp physician sent men out to work who were physically incapable of working or being exposed to the sun. The general attitude was that prisoners were slaves of the Japanese. A Japanese lieutenant habitually required prisoners to do more work than they were physically capable of doing and did not allow enough men to do a job, thus creating undue hardships. Men were made to dig with shovels with no foot plates in hard clay with their bare feet. Dikes were built by men standing in mud up to their waist (Ex 39). Approximately 95% of the camp had chronic malaria. When chills and fever started, they would be given three days off and were forced back to the rice fields on the fourth day regardless of their condition (Ex 36).

As to Specification 4: There were two faucets to supply 2,200 men. Bathing facilities consisted of open pit wells contaminated by being in close proximity to latrines. No man received more than three days quinine treatment for malaria (Ex 42). Men suffered repeated attacks of malaria. Although food was plentiful, Japanese did not allow prisoners to harvest any for themselves. Fruits and vegetables rotted on the trees and on the ground (Ex 38, 40, 49). The American mess officer was forced to sign for more food than he received. The camp produced more food than was needed by both the Japanese and Americans. Craving for food was so great among the prisoners, it was common for them to catch frogs, snakes, snails, dogs, cats, rats and to gather birds' eggs (Ex 40). Red Cross shoes were allowed to rot in the warehouse. Water was plentiful but was rationed to one canteen per day. Latrines

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were open, unscreened and not disinfected. Open wells were used in place of purified showers which were available but not used. Water was cut off during the day and early evening when men returned from work details. Barracks were kept lighted during the night forcing prisoners to sleep in open light (Ex 39). Rations were continually cut. Quarters which were suitable for fifty to sixty men were used for one hundred and fifty to two hundred men (Ex 42). The buildings were full of bed bugs, body lice and rats (Ex 40). The only clothing issued was G-strings (Ex 37, 38).

As to Specification 5 a: In July 1943 Sgt Robert J. Endress had water poured in his mouth until his stomach was bloated and the guards jumped on his stomach and then kicked and beat him (Ex 46).

As to Specification 5 b: In December 1943, Blaydes, Biggs, Hughes and others were stripped and made to kneel on hands and knees in warm tea. A 220-volt electric wire was touched to them giving them a severe shock. This treatment lasted from 0700 to 2300, during which time they were given no food or water and were kept kneeling (Ex 47). This affidavit does not mention the name of Lt Craig Milligan, however, the camp commander was found guilty of ordering, causing and permitting this incident (Ex I) and Milligan's name is mentioned there.

As to Specification 5 c: After escape of Col. Mellnick and his detail, the Japanese took six hundred men at random and confined them at reduced rations and beat them (Ex 39, 40, 41, 48, 49, 84).

As to Specification 5 d: In October 1943, twenty-one men were placed in a guardhouse built to hold four men, for ten days for punishment for the attempted escape of Pvts Pease and Brown (Ex 41). In the latter part of 1943, two enlisted men escaped and twenty-two men were confined for ten days. They were made to stand at attention all day in the cell. At night the guards would beat them with sticks if they lay down. They were served one meal a day consisting of rice and a little salt (Ex 49).

As to Specification 5 e: Not Guilty.

As to Specification 5 f: In October 1942, Lt Kelso was hit across the face with a heavy end of a black-snake whip, knocking him down (Ex 38, 39). He was hospitalized for a week or ten days (Ex 50).

As to Specification 5 g: On 9 October 1942, a guard severely slapped and punched Major Sam C. Jones and Capt Leon Cairns (Ex 51).

As to Specification 5 h: A pistol whipping caused loss of sight to Lt Col William Robinson. He was beaten with a piece of steel covered with leather about the head and face and was knocked unconscious and carried by PW's to the dispensary (Ex 36, 49, 52).

As to Specification 5 i: On 23 October 1942, S/Sgt William Rubert Potthoff was beaten on the back and shoulders with rifle butt until he lost consciousness (Ex 53).

As to Specification 5 j: On 23 October 1942, Cpl Jose Harrison Alsobrook was beaten on the head with fists and feet for about fifteen minutes (Ex 41).

As to Specification 5 k: On 8 November 1942, a Navy NCO was knocked down and beaten up unmercifully with a loaded swagger stick. He was kicked on many private parts of his body (Ex 54).

As to Specification 5 l: On 10 November 1942, Sgt Shrock was hit on the nose, causing his nose to bleed for about two days (Ex 42).

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As to Specification 5 m: In December 1942, T/Sgt James Albert Campbell, who was wearing an armband with the Japanese word for "cripple", was struck and knocked against a building because he refused to sell his watch to a Japanese private (Ex 55).

As to Specification 5 n: Cpl Edward N. Reives was beaten in the face for about five minutes (Ex 56).

As to Specification 5 o: In December 1942, Cpl Michael Pulice was slapped and kicked. He lost two teeth and part of his jaw bone. He was also subjected to other beatings (Ex 49).

As to Specification 5 p: Cpl Edward Lincoln Howard was beaten on more than one occasion. On or about 15 January 1943, he received a back injury from being hit with a rifle butt (Ex 44).

As to Specification 5 q: On 15 March 1943, M/Sgt Edwin Meiserick and five other PW's were sitting down when a guard kicked them in the back. They arose and were slapped in the face with the open hand (Ex 57).

As to Specification 5 r: Around April 1943 Sgt McPhee tossed his empty canteen to another PW on the other side of the fence after first notifying the tower guard as to what he was going to do. When the guard started to holler at him, McPhee came to the guard tower to explain and was shot at almost point-blank range. He died almost instantly (Ex 39, 58).

As to Specification 5 s: Lt Col Arnold D. Amoroso and an unidentified Navy officer were imprisoned for approximately six weeks with one issue of rice per day. When released they were sent to the hospital (Ex 40). They were severely beaten and imprisoned in a "sweat box" which was three and one-half feet square, eight feet high, and contained one small window one-foot square. The prisoners were forced to crawl through a hole in the bottom of the "sweat box" which was about eighteen to twenty inches square. They were made to stand from 0600 to 2100 and kept awake at night by guards who poked them with sticks and bayonets (Ex 59).

As to Specification 5 t: In the spring of 1943, Pvt Teller was beaten with fists and guns for about thirty or forty minutes (Ex 41).

As to Specification 5 u: In July 1943, an enlisted man, name unknown, was struck and knocked down by a Japanese civilian interpreter. As he fell, his hand fell over a log and the Japanese struck his arm with a sabre, resulting in a compound fracture (Ex 64).

As to Specification 5 v: In June 1943, T/Sgt Gordon H. Newman was beaten over the head with a rifle butt, causing a wound over his right eye and general bruises. A permanent scar over the eye resulted (Ex 65).

As to Specification 5 w: In July or August 1943, S/Sgt Omar A. Schoenborne was hit two or three times on the cheek with a rifle butt. He was knocked down and lost consciousness. After losing consciousness, a guard pushed his head and body into mud and water of the rice field (Ex 66).

As to Specification 5 x: In September 1943, a guard beat Capt Frank M. Bovee with a bamboo stick about four feet long. As Capt Bovee raised his arms to protect himself, one blow fractured his left forearm (Ex 36, 45).

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As to Specification 5 y: In October or November 1943, Sgt John Hatch was taken to the guardhouse, placed in a small cell and was made to kneel on the floor spread with cinders and rocks for hours at a time with his insteps flat so that his whole leg from knees to toes was in contact with the floor. A board loaded with bricks was placed on his out-stretched arms and he was made to lean back and put all his weight to the rear. If he faltered he was beaten. When he passed out, he was revived with a bucket of water thrown in his face. This treatement lasted for seven days. His face was cut, bruised and swollen. His legs were twice their normal size and his jaw was broken (Ex 67).

As to Specification 5 z: In October 1942, Sgt William R. Linderfeldt was beaten with rifles and sticks, knocking a tooth out. Another time he was slapped and knocked around so severely that he still carries scars on his face (Ex 68).

As to Specification 5 aa: In the latter part of 1943, Pvt Bratt and ten others selected at random were made to kneel down and were clubbed and beaten over the head, shoulders and back. They had large black and blue marks (Ex 69).

As to Specification 5 bb: A number of the prisoner officers were whipped with a riding crop. There were continual beatings, slappings, and sadistic treatment by the guards. The favorite was to force men to kneel bareheaded for hours in the tropical sun (Ex 36). In March 1943 a Japanese slapped the prisoner's face, kicked him in the stomach and shins and stamped on his bare feet with hobnailed shoes. There were continuous beatings and slappings administered by the Japanese interpreter. Men were forced to stand at attention in the hot tropical sun for long periods of time, sometimes with heavy weights placed upon their extended arms (Ex 37). Men were constantly subjected to severe and rough treatment under no provocation. Ju Jitsu was used and rocks and sticks were thrown (Ex 39). Guards would brutally beat prisoners with sticks and rifle butts (Ex 40). Other examples of beatings and abuses are cited in Exhibits 44, 46, 49, 60.

BILIBID PHASE

As to Specification 6: Conditions at Bilibid were atrocious. Cells were grossly overcrowded and sanitation facilities were extremely crude or non-existent. During the worst period, prisoners received two meals a day consisting of one-half and three-fourths of a canteen cup of rice respectively. Food was often contaminated resulting in many cases of dysentery and diarrhea. Prisoners frequently resorted to eating garbage from scrap cans and pig troughs. About three thousand PW's slept on concrete floors with no bedding or mosquito nets. There were three showers for their use (Ex 71). Medicines and supplies were never received in quantity sufficient to run hospital adequately. Vegetables consisted of sweepings and culled stuff from the markets. Japanese requisitioned the Red Cross medical supplies. Clothing issue consisted of two G-strings and two pairs of socks. Prisoners had to cut down trees and tear down buildings to obtain sufficient firewood for cooking. Guards took food which was brought by relatives at Christmas and dumped it in the street. Many deaths occurred from dysentery and malaria due to improper and insufficient food and medicines. Many deaths occurred due to starvation. There were an inadequate number of beds and mattresses which were ridden with bed bugs and lice and insufficient germicides were supplied. Japanese personnel at the camp had meat and fish (Ex 82). The senior American prisoner doctor states that slow starvation was universally present all the time. Many death cases would have undoubtedly recovered if they had had just a little more food (Ex 166).

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As to Specification 7: American prisoners were beaten with sticks and baseball bats often to the point of insensibility. A major was suspended by the wrists for sixteen hours in September 1943 and another major was suspended in like manner for eighteen hours in October 1943 (Ex 71). Witness heard of severe beatings but only observed slappings himself (Ex 108).

As to Specifications 8, 9, 10, 11, 12, 13: Not Guilty.

NIELSON AIRFIELD PHASE

As to Specification 14: American prisoners in varying numbers and at various times were made to work on airfield construction, clearing and leveling ground for runways and so forth. Many were sick and unable to work (Ex 120, 121, 122, 124).

As to Specification 15 a: There is no testimony or evidence submitted to support this specification.

As to Specification 15 b: Between 20 August 1943 and 1 October 1943, Weaver, Williams, Burton and others were administered serious beatings with pick handles. They were badly bruised, cut and gashed and bleeding (Ex 124).

As to Specification 15 c: At various times between 1 January 1943 and 9 March 1944, Baldwin, Stokes, Bartell, Pratt, Gregory, Knight and others were whipped and tortured with pick handles (Ex 125).

As to Specification 15 d: In July 1943 Cpl Charles C. Bruno was beaten with pick handles and bamboo slats. He fell down and was kicked until he rose again. This beating lasted for about one-half hour after which he was bleeding from his hips down (Ex 126).

As to Specification 15 e: Between 1 May 1943 and 30 June 1943 named prisoners were beaten everyday with iron bars, bayonets and clubs (Ex 122).

As to Specification 15 f: In August or September 1943, five PW's, names unknown, were beaten with pick handles by five guards. They were badly bruised (Ex 127).

As to Specification 15 g: In November 1942, Pvt Johnson was beaten by about five Japanese guards with clubs for about fifteen minutes. Ju Jitsu was used. The prisoner was dazed and had bad contusions about the head, back and legs (Ex 128).

As to Specification 15 h: Not Guilty.

As to Specification 15 i: On 13 October 1943, Pfc Denver was slapped, hit with a pick handle and wooden rifle. He was knocked unconscious and suffered a crushed wrist bone, concussion of the brain, back injuries and many bruises (Ex 121).

As to Specification 15 j: In October 1942, Sgt Houdyshell and another were beaten with a two and one-half foot metal bar. Sgt Houdyshell's wrist was broken (Ex 130).

As to Specification 15 k: On 4 July 1943, Bill Martin and one "Slats" were beaten with pick handles below the belt and bamboo sticks above. They were cut and bleeding (Ex 154).

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As to Specification 15 1: During May and June 1943, the guards beat the PW's every day. They used iron bars, bayonets and clubs (Ex 122). Prisoners were made to stand at attention for six to nine hours. They were made to do pushups, to stay for a long time on hands and tiptoes, or heavy weights were tied on their ears and they were made to stand up (Ex 125).

CLARK AIRFIELD PHASE

As to Specification 16: From 22 May 1942 to 20 August 1944, from one hundred fifty to seven hundred and fifty PW's were forced to work on an airfield. Men who were running high temperatures were forced to work (Ex 131). Prisoners screened gravel and cut grass on the airfield. They worked long hours with short rations and they were expected to keep moving regardless of their health. The Japanese would make a man excused by the American doctor work if they thought he wasn't sick enough (Ex 123). Prisoners were forced to work even in the typhoon season in heavy rains with only a loin cloth. Men suffered sickness of all kinds, including malnutrition. There was a great lack of medicine and food (Ex 134). Witness worked on detail moving live bombs from one building to another (Ex 135).

As to Specification 17 a: In January 1943 Cpl Reeves was beaten across the back, legs and kidneys with a heavy canoe paddle (Ex 136).

As to Specification 17 b: Between 11 April 1943 and 20 August 1943, T/Sgt Culp was slapped about and made to do push-ups (Ex 137).

As to Specification 17 c: On 8 May 1943, named prisoners were beaten on the head with a sabre (Ex 138).

As to Specification 17 d: In November 1943, a guard nicknamed "The Lizard" beat Oscar A. Mackey and others (Ex 139).

As to Specification 17 e: On 25 December 1943, Sgt Nesbit was strung up with his hands overhead and on his tiptoes overnight without food and water. He was beaten with belts and belt buckles while so strung up (Ex 138).

As to Specification 17 f: If PW's didn't work, the guards "would beat the devil" out of them. A lieutenant was always beating someone over the head with his saber (Ex 131). Men would be tied in the sun for three or four days. Guards beat PW's for no reason at all with shaft of golf club (Ex 133). A guard beat a PW on legs with a crow bar. The man couldn't walk for three weeks (Ex 136). Every day the same men were beaten because they were physically unable to work (Ex 137). The whole camp was given no food for one day as punishment for one man escaping (Ex 140).

PUERTA PRINCESSA PHASE

As to Specification 18: PW's were forced to work on an airfield, leveling ground and preparing runways (Ex 141, 142, 143, 145, 146, 155). There is no evidence that sick were ordered to work. There is testimony in the abovementioned affidavit, however, that indicates that medicines and medical supplies were entirely inadequate.

As to Specification 19 a: In June or July 1943, named PW's were caught after an attempted escape and were tortured and finally died or were shot (Ex 143, 148, 149, 153).

As to Specification 19 b: Japanese guards beat nine men of a squad (Ex 150).

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As to Specification 19 c: Not Guilty.

As to Specification 19 d: Barnum, Taylor and four others were beaten with a one and one-half inch water pipe and with a horse whip (Ex 146, 151).

As to Specification 19 e: In October 1942 named PW's were beaten with a two by four. Viturna's arm was broken. Parrish was knocked unconscious and Skripsy's forehead above the right eye was cut (Ex 152).

As to Specification 19 f: Various PW's were beaten with 2 x 4's, steel rods, clubs, riding quirts, sticks, angle iron, hands and fists. Other forms of mistreatments were to make men lie down with arms outstretched, then raise their body off the ground, keeping their back straight and remain in such position for four or five minutes. PW's suffered cuts, bruises, broken arms and fractured backs (Ex 141, 142, 144, 145, 146, 149, 151).

b. For the Defense:

Extract of testimony from Homma case was introduced to show condition of American troops at time of capture (Ex F).

Tsubota, a 2d Lieutenant assigned 13 August 1942 to accused's headquarters at Cabanatuan to train Formosan guards, states that this training came under accused who desired that Formosans be instructed to humane treatment and handling of PW's and accused forbid any man to take individual action in punishment of PW's. Formosans were told no one except the camp commander had the authority to punish. Dispatch regulations established by the commanding general, 14th Army, late in 1942 provided that requesting unit will assume complete charge of PW's in regard to food, clothing, medicines, housing, welfare, guarding and control (Ex H).

Witness Nogi, a captain in the Medical Corps from August 1942 to January 1945 on the staff of accused and also Chief of Medical Staff of Bilibid, states in affidavits, that POW camp command consisted of administrative headquarters, Bilibid attached hospital, Branch Camp No. 1, at Cabanatuan and Branch Camp No. 2 at Davao. Medical treatment was left to American medical officers. Japanese medical officers were not to interfere with American medical officers but to secure necessary and available supplies requested by American officers. Prisoners needing hospitalization were admitted to hospital without delay. Transfer administrative formalities were conducted later. There were no command functions by accused over dispatch units. When the camp opened in August 1942, the health of the PW's was bad. They were suffering from malaria, amoebic dysentery, beriberi and malnutrition. Status of prisoners' health improved with betterment of medical supplies, provisions, and clothing. Deaths decreased to one-half by December 1942 and one-fourth in January 1943 as compared with August 1942. Hospitals were established at Cabanatuan and Davao. Several carloads of medical supplies were sent to Cabanatuan in October 1942. Main camp requisitioned medical supplies from 14th Army Headquarters which decided quantity and ordered Manila Field Supply Depot to fill requisition. Until December 1942, Cabanatuan would request supplies from both Cabanatuan Supply Depot and Cabanatuan Line of Communication Hospital and if it did not receive them a request would be sent to 14th Army Headquarters. In January 1943 new orders set up supply procedure same as for Bilibid. Davao requested its supplies from both Davao Military Hospital and Davao Supply Depot. If it could not get necessary supplies in Davao, then it would request of 14th Army Headquarters who would direct Manila Supply Depot to supply Davao Freight Depot who delivered to the camp. Dispatch units were supplied through channels provided by army rules. These units had no connection with the main camp. Red Cross supplies all came to American PW doctor at Bilibid, in December 1942. These were divided by him among Bilibid, Davao and Cabanatuan in proportion to numbers of PW's at the respective camps. Japanese were ordered by camp commander not to touch these medical supplies and medicines.

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In August 1942 both PW's and the Japanese suffered from want of medical provisions. Quinine arrived from Java the end of August after which they were never short of quinine. Emetine was hardest to obtain. They obtained some emetine from Philippine Red Cross Society and two Philippine doctors in August, September and October 1942. The 14th Army Headquarters in October 1942 furnished a quantity of yatemine as a substitute for yatren. Men suffered from a scarcity of vitamin medicines. Captain King made yeast from rice and sugar. In November 1942, 100,000 ampoules of paranutrine (Vitamin B injection) arrived at main camp from Japan. In February 1943, Davao also received a quantity. There was no shortage of medicine after arrival of American Red Cross relief medicines (Ex J). Exhibit K is also a statement by Nogi but merely gives supply situation on three camps.

Witness Nogi testified on direct and cross examination: There was a shortage of medicine when he arrived just as there was in the Japanese Army (R 238). There were about 500 PW's in the hospital when he took over, mostly suffering from malaria, dysentery and beriberi. PW's were admitted to the hospital on orders of the commanding general, 14th Army (R 239). Accused had no responsibility to PW's dispatched to units other than Bilibid, Cabanatuan and Davao (R 239). Witness took care of medical supply for accused (R 240). Bilibid also handled transient PW's (R 241). Death rate dropped mainly due to receipt of Red Cross supplies and medicines (R 242). He does not remember 14th Army withdrawing any PW's from units because of mistreatment or insufficient security (R 248). He visited three or four different units with accused. Main camp had no authority as far as PW's dispatched to other units (R 250). Medical welfare of dispatched PW's was taken care of by unit commanders (R 251). Witness made proposals to accused after visits to Cabanatuan, to improve housing, clothing and food and medical facilities. Accused went to army headquarters and succeeded in improving conditions (R 253). Bilibid Hospital was not supposed to issue Japanese medicines to units. Japanese army suffered from lack of supplies in August 1942. Accused visited Bilibid about once in two months. Commanding general of the 14th Army and staff inspected several times (R 254). It took several days to transfer a sick PW to Bilibid because approval of the commanding general, 14th Army, was necessary (R 255). Units to which PW's were dispatched were not under accused's command so accused would not be inspecting these units (R 256).

Witness Hori was Officer in Charge of medical supplies in office of Surgeon, Headquarters, 14th Army from March 1942 to August 1945. Requisitions for medicines and medical supplies came to him for action. The Surgeon General would approve if sufficient supply was available. If not, they would be referred to the Chief of General Staff for action by commanding general. Witness would forward one copy to Depot to fill. Same procedure was used on requisitions for both Japanese troops and PW's. Japanese Army captured enough medical supplies from an American field hospital at Cabucaben to last about five or six months based on number of patients at that time. These supplies were taken to Bilibid for distribution and use by Americans. None were used by the Japanese army. Japanese had no nicotinic acid and there was a shortage of emetine and vitamins B and C. General flow of medical supplies from Japan to Philippines was very irregular. Requisitions from airfields went to Branch Depot and did not pass through witness' office (Ex M).

Witness Takatsu was senior staff officer, 14th Army staff to 1 August 1943. Accused could not upon his own without approval of the Commanding General, 14th Army, transfer PW's to Navy. Nielson, Clark and Palawan Fields were under command of Commanding General, 14th Army. Accused could not, upon his own, without approval of Commanding General, 14th Army, transfer any PW's to work on any of these fields.

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When PW's were transferred pursuant to orders, responsibility passed from accused to the commanding officer of the air force (Ex N).

Exhibit O purports to be a chart of PW chain of command.

Takatsu testified that accused was not a member of the staff (R 261). Bilibid, Davao and Cabanatuan were the only camps under accused's command. PW's were dispatched on orders of the commanding general, 14th Army. Accused had no responsibility regarding dispatched PW's who were the responsibility of the unit commander (R 263). Accused had no authority to conduct official inspections of dispatched units. If the commanding general, 14th Army, wanted information on PW's, he would get it from his staff officer (R 265). Respective unit commanders were responsible for PW's at Palawan, Clark and Nielson Airfields. They were not under the command of the accused. The 14th Army commanding general was overall responsible (R 267). No personnel from accused's headquarters were at the units. Accused had no authority to command, order or control units. Accused had no authority to conduct official inspections of units (R 268). Authority for inspection was held by unit commanding officers and commading general, 14th Army (R 269).

Witness Wada was transferred to Tokyo on 1 August 1942, which was the date accused took over (Ex P).

Witness Ishii was with the Southern General Army and testified to facts which were not in issue and immaterial (Ex Q).

Witness Miyake was Chief of Supply Section, Intendance Department, Headquarters 14th Army, from March 1943 to June 1945. Supply of foods after early 1943 was off schedule as allied submarine action squeezed Japanese shipping lanes. By August 1943 the squeeze was noticeable in the army and by the general public. A flood in late 1943 adversely affected crop of rice in Luzon. General food reduction was ordered in November 1943 and a second in February 1944, third in June 1944. Clothing also had to be imported from Japan and there was a shortage. Matter of food and clothing continually became critical as time went on. Responsibility for food issue was with unit and not commanding officer of POW camp (Ex R). At one time an officer from accused's headquarters, did ask witness for food and clothes for PW's (R 282).

Major General Wachi testified he was Chief of Staff, 14th Army to 25 April 1944. On 1 August 1942 a permanent POW organization (Philippines POW Main Camp) was established for the sole purpose of controlling PW's interned at Cabanatuan and Bilibid. In October 1942 Davao was established by the 14th Army Commander and placed under command of the Philippine POW Main Camp. 14th Army commanding general would order dispatch of PW's and would order requesting unit to assume complete responsibility (Ex S).

Units were not under the command of accused (R 285). Prisoners were the responsibility of unit commander. They were dispatched on orders of army commander. Accused was responsible for PW's in No. 1 and No. 2 Branch Camps and in Bilibid Hospital. He had no responsibility for PW's assigned to units (R 286).

Accused had no authority to manage PW's who were dispatched, hence no responsibility. Accused had no authority and none was granted, to make official inspections of units. Reports from Cabanatuan, Davao and Bilibid Hospital were sent to the accused directly. Units sent reports to army headquarters in duplicate. Army headquarters would forward one copy to accused. Accused then assembled all into one report which was sent to Tokyo through army headquarters. This procedure was established

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by the Ministry of War in Tokyo (R 287-288). Authority to execute PW's was held by the army commander (R 290).

14th Army commanding general made inspections of units and took one of accused's staff along on such inspections (R 300). Commanding general, 14th Army, was responsible to make inspections and keep higher headquarters informed (R 301). If accused's headquarters issued any supplies to dispatch units, then it was on orders of the 14th Army commanding general when supplies needed by the unit were not available (R 302). Only responsibility delegated to accused was clerical work to prepare and submit monthly reports (R 303). Accused was designated by Tokyo as chief of POW camps and not chief of all PW's in Philippines. How many PW's were to be sent to the camps and how many were to be dispatched were determined by the army commander. Accused was not assistant to the army commander, he was only chief of the POW camps (R 307). Clark and Nielson Fields were under the 22nd Air Group. Accused had no responsibility to those fields (R 308). Accused is not "Chief Administrator of POW Camps" but is "POW Main Camp Commander" (R 314).

Exhibit T consists of the Death Record of the Prisoner of War Information Bureau in Tokyo.

The accused, after being warned of his rights as a witness, took the stand and testified in his own behalf (R 317). He testified that he entered the army in December 1909. He reported to the Philippines 25 July 1942 by orders of the Minister of War to work under the 14th Army Commander (R 317). He received instructions that he would control and command Bilibid Hospital, Cabanatuan and Davao. He would be the immediate subordinate of the 14th Army Commander with Headquarters in Manila (R 321). It takes about a half month to go by ship to Davao, 5 or 6 hours by plane but it is hard to get accommodations on a plane. The camp is located about a half day's journey from the city. Cabanatuan was 130 kilometers from the Manila Headquarters and Bilibid was 4 kilometers. His headquarters received reports from Bilibid, Cabanatuan and Davao (R 322). He was instructed by the 14th Army Commander that he had no responsibility to dispatched prisoners. Reports came from units to Army Headquarters and he received copies which he assembled into one report by regulations of the Army Commander. He had no authority to inspect units and never received orders to inspect units. The PW's were dispatched and transferred on orders of the 14th Army Commander (R 323). He had authority to inspect Bilibid, Davao and Cabanatuan as they were under his direct command (R 324). He left on 1 March 1944 (R 325). He received various regulations including copy of Geneva Convention, in Tokyo before going to Manila but it was to work under orders of the 14th Army Commander (R 326). Seriously sick patients could be admitted to Bilibid and the transfer orders obtained later, but it was always necessary to obtain orders from 14th Army Commander to transfer PW's (R 327). When a patient brought in for hospitalization had recovered, he would ordinarily be returned to the unit from which he came (R 329). He received reports from Bilibid, Cabanatuan and Davao every 10 days. He submitted reports to Army monthly (R 330). It is not true that he was responsible for PW's at Clark, Nielson and Puerta Princessa Fields (R 331). When a unit was finished with PW's they would notify the army Commander who would approve the return of the PW's to the main camp. When accused first took over under orders of the Army Commander, he established a training unit to train guards for POW camps (R 333). He inspected the training program 2 or 3 times in about 2 months (R 334). He did not visit Nielson, Clark or Palawan Fields. He did not hear of mishandling PW's in using units. If he had heard, then he could do nothing about it (R 339). His headquarters received copies of monthly reports from units and consolidated them into one report which was submitted to the Army Commander who in turn

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sent it to Tokyo. He had no evidence that Tokyo was holding him responsible for PW's in using units (R 340). When in Tokyo, he was shown a Table of Organization of the POW Camps in the Philippines and was told that he would be the Commanding Officer (R 341). At the time he took over, he heard that PW's were assigned to other units and were working under unit commanders (R 342). After he arrived PW's were dispatched and dispatch orders indicated clearly that he had no command over these PW's. In November 1942, the 14th Army Commander issued POW dispatch regulations. He had no authority to send liaison officers to dispatch camps (R 343). The approval of the Army Commander was necessary to hospitalize dispatched PW's at Bilibid. Accused only had the responsiblity of supervision at Bilibid (R 344). He never authorized execution of PW's (R 345). He did not know of regulations providing for death by shooting for attempted riot, attempted or actual escape. PW who was recaptured would be courts-martialed and punished according to trial (R 346). Maximum penalty for attempted escape was death (R 347). Accused is familiar with Geneva Convention Rules but when they conflict with Japanese regulations, the latter will be followed. He heard that Biggs, Breitung and Gilbert were shot while they were escaping. He denies issuing any orders of execution (R 348). If they were shot after recapture it was unlawful. The report he received was that they were shot because they could not be recaptured. This was not unlawful (R 349). If an escape was attempted by many prisoners at once, courts-martial would order death or life imprisonment for the leader. A draft of regulations was made in his headquarters and submitted to and issued under the name of the 14th Army Commander, in October 1942 (R 350). It was not possible for accused to make visits to dispatch units and make recommendations to the 14th Army Commander (R 352). The Army Commander told him that he, the accused, was not responsible for dispatched units. He was directly responsible for Bilibid, Davao and Cabanatuan. He had no authority to order executions, and did not order any (R 355). The PW treatment regulations provided that guards were to shoot if necessary to prevent escape. He never received any reports from Bilibid, Davao or Cabanatuan that PW's had been recaptured and shot without courts-martial. The 14th Army Commander ordered the accused to also take over the Army Internment Camps (R 356). (Considerable testimony then follows relative to the numbers of PW's dispatched and the reports sent in as to the numbers dispatched.) Accused inspected Bilibid, Davao and Cabanatuan when he took over (R 360). He learned of the killing of the three officers in Specification 2a for the first time during the trial (R 362). He had no knowledge of the incident in 2b. He received a report on 2c which stated that the guard shot when the prisoner attempted escape. As to 2f, the guard shot when he could not recapture. The report on 2h showed that the prisoner was shot during attempt to escape and he has no knowledge of the incident mentioned in 2i (R 363).

4. Opinion:

The commission had jurisdiction over the accused and of the offenses charged. There is no evidence that the accused was not sane at the time of the commission of the alleged acts or at the time of the trial. The accused was given a fair trial, was ably defended, cooperated in his own defense, offered evidence on his own behalf and took the witness stand to testify after being warned of his rights. No ruling of the commission is deemed to have affected the substantial rights of the accused. There is considerable testimony on the subject of the reports which accused received, their content and the manner in which they were handled. Much of this testimony is repetitious and immaterial. It all resolves to the fact that the accused was designated as the agency of the commanding general of the 14th Army to receive monthly reports on prisoners of war from various units and camps, consolidate them and prepare a single report from this consolidation for the 14th Army commander to submit to the Prisoner of War Information Bureau in Tokyo. Accused had command responsibility for Cabanatuan and Davao Camps and Bilibid Hospital (R 239, 263, 286, 321, 324).

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The testimony of the various officers of the 14th Army Staff clearly states that the accused had no responsibility of command over the dispatch units. If he made any inspections or visits to dispatch units it was purely for the purpose of checking on this paper work which the accused was designated to do. The prosecution has failed to prove the accused's command responsibility over the various dispatch units beyond a reasonable doubt. The record is therefore found legally insufficient to sustain the commission's findings of guilty of Specifications 14, 15, 15a, 15b, 15c, 15d, 15e, 15f, 15g, 15i, 15j, 15k, 15l, 16, 17, 17a, 17b, 17c, 17d, 17e, 17f, 18, 19, 19a, 19b, 19d, 19e, 19f.

5. Recommendations:

No request for clemency has been submitted. The accused was sentenced to confinement at hard labor for twenty (20) years. The sentence is legal. The commission's sentence of twenty (20) years confinement at hard labor is considered not excessive for findings of guilty which are legally sustained.

It is recommended that the findings of the commission be approved as to Specifications 1, 2, 2a, 2b, 2c, 2d, 2e, 2f, 2g, 2h, 2j, 2k, 2l, 2m, 2n, 2o, 2p, 2q, 2r, 2s, 2u, 2v, 2y, 2z, 3, 4, 5, 5a, 5b, 5c, 5d, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 5m, 5n, 5o, 5p, 5q, 5r, 5s, 5t, 5u, 5v, 5w, 5x, 5y, 5z, 5aa 5bb 6 and 7. It is further recommended that owing to the length of time accused has been in confinement prior to date of sentence, six and one-half ($6\frac{1}{2}$) months of the sentence be remitted.

6. Action:

A form of action designed to carry these recommendations into effect is attached hereto.

FRANKLIN L. DEIBERT
Captain, F.A.
Assistant Staff Judge Advocate

I concur in general. The sentence of this commander for proper conviction of command responsibility for the many fatal and atrocious abuses occurring under his control, of which he had at least constructive notice, and about which he failed to complain to higher authority or take other available remedial measure (although in effect a life sentence) could well have been one adjudging capital punishment under the facts in evidence.

ALLAN R. BROWNE
Lt Col JAGC
Army Judge Advocate

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